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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,376	07/30/2001	Arturo A. Rodriguez	A-6699	1054

  

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SCIENTIFIC-ATLANTA, INC.		
INTELLECTUAL PROPERTY DEPARTMENT		
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LAWRENCEVILLE, GA 30044		

  

EXAMINER	
SHELEHEDA, JAMES R	

  

ART UNIT	PAPER NUMBER
2623	

  

NOTIFICATION DATE	DELIVERY MODE
01/18/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOmail@sciatl.com

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/918,376

Applicant(s)

RODRIGUEZ ET AL.

Examiner

James Sheleheda

Art Unit

2623

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**CHRIS KELLEY**  
**SUPERVISORY PATENT EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: In response to applicant's arguments on pages 30-32, Daniels specifically discloses wherein the pages are downloaded and cached during reception of the program (column 24, lines 11-21) to provide information about the current section of the program (column 23, lines 35-50). The data is indexed by time of presentation, as the data is downloaded according to the current presentation time, as the data is pertinent to a particular section of the presentation (column 23, lines 35-50 and column 24, lines 11-34).

In response to applicant's arguments on pages 32-34, Daniels specifically discloses utilizing locally stored web pages when they are available in the local file system (column 24, lines 11-37). If the user selects a web-page which is unavailable locally, the system will transition from local storage to other web pages which are not stored locally (column 24, lines 11-37), thus meeting the claim limitations, as the transition is based upon the availability of the desired media in the local storage. As the local storage cannot provide the desired content, the system will retrieve it remotely.

In response to applicant's arguments on pages 37-39, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, Payton was relied upon to disclose using remote data to support the processor or using remote and local data to support the processor. Norwood was merely relied upon to disclose the ability of determining whether a file system is coupled and acting accordingly and the benefits therein. As such, Norwood specifically disclosing monitoring the status of storage devices (column 5, lines 23-42) to ensure proper system functioning by identifying which resources are unavailable for use (column 2, line 28-column 3, line 14). Thus, it is the combination of Payton and Norwood which meets the claim limitations.

In regards to claims 5-8 and 69-72, as indicated above and in the previous action, Norwood clearly discloses these limitations.

In regards to claims 26 and 84, applicant is incorrect in their understanding of Rasson which clearly discloses using both digital and analog channels to transmit media content, such as television programming (column 4, lines 49-59).

Furthermore, in regards to claims 26 and 84, applicant is incorrect in their understanding of Basawapatna which clearly discloses a digital network for distributing television signals to subscribers (column 2, line 65-column 3, line 23).

On page 41, applicant argues that logic is not inherently present as other means may be utilized to control the processor.

Firstly, it is noted that logic operations (like an Exclusive Or) between two numbers. the ALU is a fundamental building block of the central processing unit of a computer, and as such, the examiner is unclear as to how applicant feels that "logic" would somehow not be present in the operation and control of the processor.

Secondly, it is noted that "logic" as used in applicant's specification seems to merely refer to computer software running on the system (see page 15, lines 26-31).

Thus, applicant's arguments are not persuasive.